



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2012-0494]

RIN 1625-AA00

Safety Zone for Fireworks Display, Pamlico and Tar Rivers;  
Washington, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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SUMMARY: The Coast Guard is establishing a temporary safety zone on the Pamlico and Tar Rivers, Washington, NC. This action is necessary to protect the life and property of the maritime public from the hazards posed by fireworks displays. This zone is intended to restrict vessels from a portion of the Pamlico River and Tar River during Beaufort County's 300<sup>th</sup> Anniversary Celebration Fireworks.

DATES: This rule is effective on September 22, 2012, from 8:00 p.m. until 10:00 p.m.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2012-0494]. To view documents mentioned in this preamble as being available in the docket, go to

<http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on

the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail CWO4 Joseph M. Edge, Sector North Carolina Waterways Management, Coast Guard; telephone 252-247-4525, e-mail Joseph.M.Edge@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

A. Regulatory History and Information

On June 21, 2012 a Notice of Proposed Rule Making (NPRM) was published in 77 FR 37356. We received no comments on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

On September 22, 2012 fireworks will be launched from a point on land near the Pamlico and Tar Rivers to commemorate Beaufort County's 300<sup>th</sup> anniversary. The temporary safety zone created by this rule is necessary to ensure the safety of vessels

and spectators from hazards associated with the fireworks display. Such hazards include obstructions to the waterway that may cause death, serious bodily harm, or property damage. Establishing a safety zone to control vessel movement around the location of the launch area will help ensure the safety of persons and property in the vicinity of this event and help minimize the associated risks.

#### C. Discussion of Comments, Changes and the Final Rule

We received no comments on the proposed rule. No public meeting was requested, and none was held.

A temporary safety zone is necessary to ensure the safety of spectators and vessels during the setup, loading, and launching of the Beaufort County 300<sup>th</sup> Anniversary Fireworks Display. The fireworks display will occur for approximately 25 minutes from 9 p.m. to 9:25 p.m. on September 22, 2012. However, the Safety Zone will enforced from 8 p.m. until 10 p.m. in order to ensure safety during the setup, loading and removal of the display equipment.

The safety zone will encompass all waters on the Pamlico and Tar Rivers within a 300 yard radius of the launch site on land at position 35°32'25" N, longitude 077°03'42" W. All geographic coordinates are North American Datum 1983 (NAD 83). The effect of this temporary safety zone will be to restrict navigation in the regulated area during the enforcement period.

All persons and vessels shall comply with the instructions

of the Coast guard Captain of the Port or the designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Sector North Carolina or his designated representative. The Captain of the Port or his designated representative may be contacted via VHF Channel 16. Notification of the temporary safety zone will be provided to the public via marine information broadcasts.

#### D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

##### 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Although this regulation will restrict access to the area, the effect of this rule will not be significant because: (i) the safety zone will only be in effect from 8 p.m. to 10 pm on September 22, 2012, (ii) the Coast Guard will give advance notification via maritime advisories so

mariners can adjust their plans accordingly, and (iii) although the safety zone will apply to the section of the Pamlico River and Tar River, vessel traffic will be able to transit safely around the safety zone.

## 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit through or anchor in the specified portion of Pamlico River and Tar River from 8 p.m. to 10 p.m. on September 22, 2012.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will only be in effect for two hours, from 8 p.m. to 10 p.m. Although the safety zone will apply to a section of the Pamlico River, vessel traffic will be able to transit safely around the safety zone. Before the effective period, the Coast Guard will issue maritime advisories widely available to the users of the waterway.

## 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### 4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and

the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### 11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

## 12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

## 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule establishes a temporary safety zone to protect the public from fireworks fallout. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165-- REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T05-0494 to read as follows:

§ 165.T05-0494 SAFETY ZONE FOR FIREWORKS DISPLAY, PAMLICO RIVER; WASHINGTON, NC

(a) Definitions. For the purposes of this section, Captain of the Port means the Commander, Sector North Carolina.

Representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized to act on the behalf of the Captain of the Port.

(b) Regulated Area. All waters on the Pamlico and Tar Rivers within a 300 yard radius of the launch site on land at position latitude 35°32'25" N, longitude 077°03'42" W. All geographic coordinates are North American Datum 1983 (NAD 83).

(c) Regulations. The general safety zone regulations contained in 33 CFR §165.23 of this part apply to the area described in paragraph (b) of this section.

(1) Persons or vessels requiring entry into or passage through any portion of the safety zone must first request authorization from the Captain of the Port, or a designated representative, unless the Captain of the Port previously announced via Marine Safety Radio Broadcast on VHF Marine Band Radio channel 22 (157.1 MHz) that this regulation will not be enforced in that portion of the safety zone. The Captain of the Port can be contacted at telephone number (910) 343-3882 or by radio on VHF Marine Band Radio, channels 13 and 16.

(d) Enforcement. The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(e) Enforcement period. This section will be enforced from 8 p.m. to 10 p.m. on September 22, 2012 unless cancelled earlier by the Captain of the Port.

Dated: July 30, 2012

A. POPIEL  
Captain, U.S. Coast Guard  
Captain of the Port North Carolina

[FR Doc. 2012-19841 Filed 08/13/2012 at 8:45 am; Publication  
Date: 08/14/2012]